

FILED

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JAMES R. BROWNING, Clerk

IN THE
**SUPREME COURT OF THE
UNITED STATES**

October Term, [REDACTED] 1961

No. 8*Original*

STATE OF ARIZONA, Complainant,

v.

STATE OF CALIFORNIA, PALO VERDE IRRIGATION DISTRICT, COACHELLA VALLEY COUNTY WATER DISTRICT, METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, CITY OF LOS ANGELES, CALIFORNIA, CITY OF SAN DIEGO, CALIFORNIA, AND COUNTY OF SAN DIEGO, CALIFORNIA, Defendants,

THE UNITED STATES OF AMERICA AND STATE OF NEVADA, Interveners

STATE OF UTAH AND STATE OF NEW MEXICO, Impleaded Defendants.

**NEW MEXICO'S EXCEPTIONS TO THE REPORT
AND RECOMMENDED DECREE OF THE SPECIAL
MASTER, DATED DECEMBER 5, 1960**

STATE OF NEW MEXICO,

EARL E. HARTLEY,

Attorney General,

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CLAUDE S. MANN,

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IN THE
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October Term, 1960

STATE OF ARIZONA,

Complainant,

v.

STATE OF CALIFORNIA, PALO
VERDE IRRIGATION DISTRICT,
IMPERIAL IRRIGATION DIS-
TRICT, COACHELLA VALLEY
COUNTY WATER DISTRICT,
METROPOLITAN WATER DIS-
TRICT OF SOUTHERN CALIF-
ORNIA, CITY OF LOS ANGELES,
CALIFORNIA, CITY OF SAN
DIEGO, CALIFORNIA, AND
COUNTY OF SAN DIEGO, CAL-
IFORNIA,

Defendants,

THE UNITED STATES OF AMER-
ICA AND STATE OF NEVADA,

Interveners,

STATE OF UTAH AND STATE
OF NEW MEXICO,

Impleaded Defendants.

No. 9
Original

**NEW MEXICO'S EXCEPTIONS TO THE REPORT
AND RECOMMENDED DECREE OF THE SPECIAL
MASTER, DATED DECEMBER 5, 1960**

OPENING REMARKS

The Findings and Conclusions of the Special Master in his report and recommended Decree of December 5, 1960, are generally satisfactory to the State of New Mexico. Insofar as the recommended decree is concerned, Article IV, Sections A, B, C and D (Report pp. 354, 355, 356, 357) are the result of negotiations between the states of Arizona and New Mexico, and in part, the United States. The United States attended some of these negotiations though it objected to the principle of the compromise. A review of the aforementioned sections of Article IV discloses that the Special Master has adopted the language agreed upon by Arizona and New Mexico and as submitted to him. As a part of this negotiated compromise, the representatives of Arizona and New Mexico agreed that neither party would further object to the findings of present uses described in the compromise agreement. For this reason, New Mexico does not believe it appropriate for it to further dispute the findings and conclusions incorporated in that portion of the recommended decree.

RESERVATION THEORY

Sub-paragraph E of Article IV recognizes the reservation theory as applied to federal lands. New Mexico does not agree in principle with the Winters Doctrine as applied to Indian Reservations nor to the extension thereof to include all Federal Reservations (Report p. 293) and possibly lands administered by the Bureau of Land Management (Report, pp. 96, 334). New Mexico believes that an application of these doctrines is generally contrary to the efficient development and use of the water resources of the arid West. However, New Mexico does not take ex-

ception to the specific manner in which the reservation theory is applied in the Report and Recommended Decree involving the equitable apportionment of the waters of the Gila River system.

SAN SIMON CREEK

Since the time of the aforementioned negotiations between Arizona and New Mexico, it has come to our attention that development of the underground waters on the Arizona side of the San Simon basin is progressing quite rapidly; across the state line, New Mexico has declared an underground basin pursuant to its pertinent statutory authority (Sec. 75-11-1, et seq., N.M.S.A., 1953 Comp.) to prohibit any further development of underground waters within the San Simon basin. Furthermore, at such time as the Recommended Decree in its present form should become final, New Mexico would be prohibited from developing uses over and above what has been determined to be its present uses. (Report Recommended Decree, Art. IV, Sec. A. p. 354; Findings 13, 14, p. 338). Should the development on the Arizona side of the boundary continue at its present uninhibited rate the ground water sources will be depleted and the present uses in New Mexico from this same basin will be seriously encroached upon. Therefore, it appears likely that unless prompt action is taken by Arizona in halting the uncontrolled development of the underground waters in the San Simon Creek area in Arizona, ~~or~~ the Recommended Decree is amended to require such action, it will become incumbent upon New Mexico at some future time, as permitted by Article IX of the Recommended Decree, to apply to this Court for amendment of the decree for relief to protect present New Mexico uses,

CORRECTIONS

New Mexico takes this opportunity to point out one omission in the Recommended Decree. In Article IV (D) (1) (Report, p. 356) at the bottom of the page under the owner designated Chris Dotz, a description of a portion of the Dotz ownership was inadvertently omitted. A comparison of the descriptions shown therein with that found in Finding 26, (Report, pp. 340, 341), discloses that in addition to the SE1/4SE1/4; SW1/4SE1/4, there should be included the NW1/4NE1/4; and NE1/4NE1/4.

CONCLUSION

In conclusion, New Mexico takes no specific exception to the Report and Recommended Decree dated December 5, 1960, as submitted.

In view of the foregoing, New Mexico will not file an opening brief but New Mexico does reserve the right to file briefs in response to exceptions, if any, wherein her interests are affected.

STATE OF NEW MEXICO,

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